

REMARKS

We have amended the claims to more particularly point out and distinctly claim the inventions. After entering the amendments identified above including the two new dependent claims 76 and 77, claims 1-9, 11-34, 36-59, 61-77 will be pending in this application. Of these, claims 1, 13, 26, 38, 51, and 63 are independent.

Yourlo

The examiner rejected claims 1-3, 5-10, 12, 26-28, 30-35, 37, 51-53, 55-60, and 62 under 35 U.S.C. §102(e) as anticipated by U.S. 6,201,176 to Yourlo. However, contrary to what the examiner appears to believe, Yourlo fails to teach or suggest a number of elements or features recited in the independent claims.

For example, Yourlo does not in any way teach or suggest “generating a control stream that indicates which of the instrumental parts has a highest value for each of a plurality of periods of time,” as recited claim 1 as amended. Indeed, Yourlo does not even teach or suggest generating a control stream of any kind. Yourlo simply selects complete music pieces from a database containing many stored musical pieces and then plays the selected music piece.

Also, Yourlo does not teach or suggest “selecting one of the instrumental parts for” each of a plurality of periods of time “based on the control stream,” also recited in claim 1 as amended. Yourlo is not only silent about control streams but he is also silent with respect to instrumental parts. In Yourlo, instrumental parts are not mentioned because they are inextricably contained within the pieces of music. Yourlo querying is limited to the pieces of music as a whole piece. Yourlo cannot and does not query or select instrumental parts.

The examiner identified column 9, lines 42-47 as supposedly disclosing the elements and features mentioned above. But our review of the cited portion of the specification did not reveal any disclosure of the above-mentioned features.

We submit that claim 1 is patentable over Yourlo for at least the reasons mentioned above. We also submit that independent claims 26 and 51, which recite elements and features similar to those discussed above are patentable over Yourlo for at least the same reasons.

Aoki

The examiner also rejected claims 13-20, 24-25, 39-45, 64-70, 49-50, and 74-75 under 35 U.S.C. §102(e) as being anticipated by U.S. 6,294,720 to Aoki. We note, however, that Aoki

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does not teach or suggest "for each of a plurality of periods of time, identifying a plurality of patterns in the electronic music file," as recited in claim 13 as amended. Rather, Aoki simply teaches analyzing a melody motif to extract "rhythm pattern data RP" (Col. 13, lines 9-28). Then, Aoki uses that RP data to search among pattern groups stored in multiple storage areas 100a, 100b to find a particular rhythm pattern to use with the melody motif. The extracted rhythm pattern (i.e., the rhythm pattern data RP) is a skeletal pattern in that it has no notes or instruments. The skeletal pattern is only a place holder to be used as the subject of a query to databases which store many different rhythm, some similar and some contrastive. When specified by the user, the database can be used to find stored percussion parts that are similar (or contrastive) in time to the skeletal pattern.

Aoki does not teach or suggest "selectively combining multiple of said plurality of identified patterns for that period of time to produce the musical part," as recited in claim 13 as amended. Furthermore, Aoki does not teach or suggest doing this "for each of said plurality of periods of time," as is also recited in claim 13 as amended.

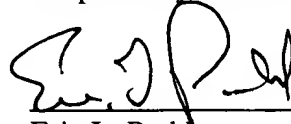
For the reasons stated above, we believe that the claims are allowable and therefore ask the Examiner to allow them to issue.

Please charge our Deposit Account No. 08-0219 the required fee \$930.00 for the Petition for Three-Month Extension of Time under 37 CFR 1.136(a). Please apply any other charges or credits to Deposit Account No. 08-0219.

Date: _____

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Respectfully submitted,



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